REMARKS

Applicants have canceled claims 1-20, 22-24, and 33-37 without prejudice to continued prosecution. Claim 21 has been amended to incorporate the limitations of claim 24. No new matter has been added. Applicants respectfully request reconsideration and allowance of claims 21 and 25-32 in view of the above amendment and following remarks.

In view of the above claim cancellations, Applicants are not addressing the Examiner's assertions regarding priority with respect to those canceled claims. Applicants reserve the right to address the priority issues if those claims or similar claims are pursued.

Rejection under 35 U.S.C. §112, first paragraph

The Examiner rejected claim 37 under 35 U.S.C. § 112, first paragraph, for lack of enablement. The Examiner asserted that the specification "does not reasonably provide enablement for targeting in which the individual components are merely mixed or where the individual components are not even co-administered." Applicants respectfully disagree with the Examiner's assertions. In an effort to expedite prosecution, however, claim 37 has been canceled. The Examiner is requested to withdraw the rejection of claim 37 under 35 U.S.C. 112, first paragraph.

Obviousness Type Double Patenting Rejections

The Examiner rejected claims 1-23 and 25-37 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 5, 998,369. The Examiner asserted that :

> the claims of the '369 patent anticipate instant claims 1, 2, 4, 10-15, 17, 18, 20-23, 26, 27, 33, and 35-37. With respect to instant claims 3, 16, 19, and 25, and 34, while the '369 patent claims IGFII, the '369 patent does not claim human IGFII. It would have been obvious to one of ordinary skill in the art to use human IGFII as the source of the IGFII required by the claims of the '369 patent because use of the human source would permit the treatment of human patients while lessening the possibility of adverse immunological reactions. With respect to instant claims 5-9 and 28-32, while the '369 patent does not claim these specific methods of administration, it would have been obvious to one of ordinary skill in the art to administer the complexes claimed in the '369 patent by the specific methods recited in instant claims 5-9 and 28-32, because these specific methods are known methods of administering proteins to humans and because it is routine in the

art to administer proteins by methods known in the art to be useful for administering other proteins.

Claims 1-20, 22-24, and 33-37 have been canceled without prejudice to continue prosecution. The subject matter of claim 24 has been incorporated into independent claim 21. In view of the above amendment, the Examiner is requested to withdraw the obviousness-type double patenting rejection over U.S. Patent No. 5,998,369.

The Examiner provisionally rejected claims 1-23 and 25-37 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 and 22-33 of copending Application No. 09/428,226. The Examiner asserted that

> the claims of the '226 application anticipate instant claims 1, 2, 4-15, 17, 18, 20-22, 26-33, and 35-37. With respect to instant claims 3, 16, 19, 25, and 34, while the '226 application claims IGFII, the '226 application does not claim human IGFII. It would have been obvious to one of ordinary skill in the art to use human IGFII as the source of the IGFII required by the claims of the '226 application because use of the human source would permit the treatment of human patients while lessening the possibility of adverse immunological reactions.

Applicants note that Application No. 09/428,226 issued on April 15, 2003, as U.S. Patent No. 6,548,482. As discussed above, claims 1-20, 22-24, and 33-37 have been canceled. Claim 21 has been amended to incorporate the subject matter of claim 24. Accordingly, Applicants request that the obviousness-type double patenting rejection over Application No. 09/428,226, be withdrawn.

The Examiner asserted that claims 1-23 and 25-37 are directed to an invention not patentably distinct from claims of commonly assigned 5,998,369. As discussed above, claims 1-20, 22-24, and 33-37 have been canceled and claim 21 has been amended to incorporated the limitations of claim 24.

Rejections under 35 U.S.C. §102 and §103

The Examiner rejected claims 6, 7, 11-14, 17, 21, 23, 26-31, 33, and 35-37 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5, 998,369; claims 1, 2, 4-6, 11, 12, 18, 20-23, 27-29, 33, 36, and 37 were rejected under 35 U.S.C. § 103(a) as being obvious over Clark et al. (U.S. Patent No. 5, 187,151); claims 3, 9, 16, 25, 32, and 34 were rejected under 35 U.S.C.

§ 103(a) as being obvious over U.S. Patent No. 5,998,369; claims 18, 19, 33, and 34 were rejected under 35 U.S.C. 102(b) as being anticipated by the Bach et al. article (Biochim. Biophys. Acta, Vol. 1313, pages 79-88); and claims 1, 4-6, 11, 18, 21-23, 27-29, 33, and 37 were rejected under 35 U.S.C. 102(b) as being anticipated by Clark et al. (U.S. Patent No. 5, 187, 151).

While Applicants disagree with the Examiner's rejections, claims 1-20, 22-24, and 33-37 have been canceled without prejudice. The subject matter of claim 24 has been incorporated into independent claim 21. Accordingly, the rejections under 35 U.S.C. §§102 and 103 should be withdrawn.